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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Wade Nelson,

10 Plaintiff,

11 v.

12 Newmark Knight Frank, et al.,

13 Defendants.
14

No. CV-17-03150-PHX-SMB

ORDER

15 Pending before the Court is Defendants' Motion for Summary Judgment.¹ (Doc. 88,
16 "Mot.") Plaintiff, a pro se litigant, responded and Defendants replied. (Doc. 91, "Resp.";
17 Doc. 92, "Repl.") Defendants filed a separate statement of facts (*see* Doc. 89), but Plaintiff
18 did not. Defendants move for summary judgment on the sole remaining claim in Plaintiff's
19 Amended Complaint (Doc. 37). (Mot. at 1.) Both parties requested oral argument, but the
20 Court elects to resolve the Motion without it. *See* LRCiv 7.2(f) ("The Court may decide
21 motions without oral argument."). Because no genuine issue of material fact exists and the
22 undisputed facts entitle Defendants to summary judgment, the Court will grant the Motion.

23 **I. PROCEDURAL DEFECTS**

24 As a preliminary matter, the Court is compelled to address the multiple deficiencies
25 in Plaintiff's Response. First, Plaintiff violated Local Rule of Civil Procedure 56.1(b) by
26 not filing a controverting statement of facts. Local Rule 56.1(b) requires a party opposing
27 summary judgment to

28 ¹ Defendants are G&E Real Estate Management Services, Inc. (d/b/a Newmark Knight Frank) and BGC Partners, Inc.

1 file a statement, separate from that party's memorandum of
2 law, setting forth: (1) for each paragraph of the moving party's
3 separate statement of facts, a correspondingly numbered
4 paragraph indicating whether the party disputes the statement
5 of fact set forth in that paragraph and a reference to the specific
6 admissible portion of the record supporting the party's position
7 if the fact is disputed; and (2) any additional facts that establish
8 a genuine issue of material fact or otherwise preclude judgment
9 in favor of the moving party. . . .

10 If an opposing party fails to file a controverting statement of facts, the Court may deem the
11 moving party's statement of facts to be true. *Szaley v. Pima Cty.*, 371 F. App'x 734, 735
12 (9th Cir. 2010); *see also Pierson v. City of Phoenix*, No. CV-16-02453-PHX-DLR, 2017
13 WL 4792122, at *1 (D. Ariz. Oct. 24, 2017) ("The court may deem a movant's separate
14 statement of facts to be true if the nonmoving party does not comply with [Local Rule
15 56.1]"). "In the absence of specific facts, as opposed to allegations, showing the existence
16 of a genuine issue for trial, a properly supported summary judgment motion should be
17 granted." *Nilsson, Robbins, Dalgarn, Berliner, Carson & Wurst v. Louisiana Hydrolec*,
18 854 F.2d 1538, 1545 (9th Cir. 1988.) Because Plaintiff omits a controverting statement of
19 facts, the Court considers Defendants' statement of facts (*see* Doc. 89) as true.

20 Second, Plaintiff's Response violates Federal Rule of Civil Procedure 56(c) and
21 Local Rule of Civil Procedure 56.1(e) by not citing to specific evidence in the record.
22 "Memoranda of law filed . . . in opposition to a motion for summary judgment . . . must
23 include citations to the specific paragraph in the statement of facts that supports assertions
24 made in the memoranda regarding any material fact on which the party relies" LRCiv
25 56.1(e). Plaintiff's Response contains snippets of his deposition with editorial comments
26 attempting to modify the meaning of his responses, unsupported by evidence, without
27 citations to the record. (*See, e.g.,* Repl. at 14-16.) This is insufficient under Local Rule of
28 Civil Procedure 56.1(e).

Third, Plaintiff's Response violates Local Rule of Civil Procedure 7.2(e)(1) by
exceeding seventeen (17) pages. Plaintiff's Response is twenty-three (23) pages excluding
the certificate of service. Even despite these notable deficiencies, however, the Court can

1 still appropriately consider whether Defendants are entitled to summary judgment on
2 Plaintiff's remaining AEPA claim.

3 **II. BACKGROUND**

4 This case arises out of an alleged whistleblower protection violation under the
5 Arizona Employment Protection Act ("AEPA") when Defendant Newmark Knight Frank
6 ("Company") fired Plaintiff on September 14, 2016 due to "position elimination." (Doc.
7 89-1 at 59-62.) About a year earlier in September 2015, the Company hired him to lead a
8 new business group, the Tax Appeal Group ("TAG"), in Phoenix, Arizona. (*Id.* at 2-3 ¶ 3,
9 15.) While employed there, Plaintiff reported to Mr. Buddemeyer. (*Id.* at 2-3 ¶¶ 2-3.)

10 Plaintiff's sole remaining claim under the AEPA almost entirely concerns a series
11 of internal emails containing fake estimates and whether Plaintiff reasonably believed he,
12 the Company, and/or its employees violated Arizona law. Specifically, Plaintiff asserts that
13 Buddemeyer ordered him to send him an email with a revenue forecast or "pipeline" or he
14 would lose his job.² (*Id.* at 34-36.) He sent Buddemeyer an email on April 11, 2016 titled:
15 "Wade pipeline – current estimated *potential* fees by state/project" ("pipeline email")
16 concerning about \$1.38 million dollars of possible Company revenue. (*Id.* at 52) (emphasis
17 added). Two days later, Buddemeyer responded by asking Plaintiff: "how much of the fee
18 should/could be earned in calendar year 2016?" (*Id.* at 51.) Plaintiff replied a few hours
19 later: "[t]he work is done and fees charged in the current 2016 year but the benefits in the
20 form of refunds with interest cover up to four back years." (*Id.*) The next morning,
21 Buddemeyer again inquired whether the pipeline email's fees were "earned 100%." (*Id.*)
22 Plaintiff did not immediately respond to this email. (*See id.* at 50.)

23 Concerned about the accuracy of the estimates after inquiring twice whether any
24 fees were actually earned, (*id.* at 3 ¶ 8), Buddemeyer forwarded his email conversation
25 with Plaintiff to Mr. Lodge, (*id.* at 50, 54-55 ¶ 3.) Buddemeyer also called Lodge that day
26 because he doubted the accuracy of the estimates. (*Id.* at 3 ¶ 9, 55 ¶ 4.) Within an hour after

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28 ² Plaintiff also claims that he reported Buddemeyer's job threat. (*Id.* at 34-36.) However,
beyond mere allegations, Plaintiff provides no facts showing Buddemeyer ordered him to
create the pipeline email or that he reported the threat.

1 receiving Buddemeyer's email, Lodge emailed Plaintiff inquiring whether any fees could
2 be recorded and requested documentation such as letters of engagement, contracts, and
3 invoice copies in order to record them. (*Id.* at 49, 55 ¶¶ 5-6.) This documentation, Lodge
4 stated under oath, is necessary to publicly report any fees. (*See id.* at 55-57 ¶¶ 5, 11-12.)
5 Lodge also asked Plaintiff to "let [him] know how much of the [pipeline email fees] have
6 been completed and maybe even invoiced." (*Id.* at 49.) Two hours after receiving Lodge's
7 email, Plaintiff emailed Buddemeyer: "[t]hose are estimated fees." (*Id.* at 50.) Four hours
8 after that, Plaintiff also emailed Lodge: "[n]one of it has been completed. It is all in the
9 identification, discussion, pre-proposal phase." (*Id.* at 49, 56 ¶ 7.) At deposition, Plaintiff
10 admitted the pipeline email estimates were "completely made up." (*Id.* at 37.)

11 Buddemeyer and Lodge both claim under oath that they did not tell Plaintiff the
12 Company would use his pipeline email estimates for financial reporting purposes. (*Id.* at 4
13 ¶¶ 13-14, 56-57 ¶¶ 10-11.) Buddemeyer further claims he does not know whether the
14 estimates were "used in any publicly reported data by Defendants or any affiliated
15 Defendants' companies," (*id.* at 4 ¶¶ 13-14), while Lodge further claims he "could not use
16 Plaintiff's [pipeline] email in connection with any internal or public report," (*id.* at 56-57
17 ¶¶ 10-11.) Lodge also states that "[n]othing in [Plaintiff's pipeline email] was used in any
18 publicly reported data by Defendants or any of Defendants affiliated companies." (*Id.* at
19 57 ¶ 12.) While employed by the Company, Plaintiff knew that TAG "did not have the
20 mechanisms in place" to charge or collect fees. (*Id.* at 30, 32.) Plaintiff also stated under
21 oath that he understood Lodge's response to mean that the Company could not record any
22 fees without further documentation. (*Id.* at 39-40.)

23 Nevertheless, Plaintiff claims the pipeline email estimates were used because Lodge
24 complimented him on how impressive they were.³ (*Id.* at 38, 44.) Plaintiff acknowledges
25 he lacks "independent knowledge that [the pipeline email] was used outside the company,"

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27 ³ Plaintiff claims this because Lodge's email allegedly says: "That's a nice looking pipeline
28 you got there." (*Id.* at 44.) Lodge's email does say: "Looks like you have a good pipeline
of activity . . . I would like to see if we can start recording any of these fees" But
reviewed in context, it is clear Lodge needed to verify Plaintiff's estimates before using
them.

1 but still believes it was publicly reported because someone told him that. (*Id.* at 43.) By
2 admitting the fraudulent nature of the pipeline email estimates at deposition, Plaintiff
3 claims he is “essentially admitting to securities fraud.” (*Id.* at 37.) After sending the
4 pipeline email, Plaintiff researched whistleblower protections, but “didn’t look at [the
5 situation] from an Arizona standpoint” because he “thought it was a federal violation.” (*Id.*
6 at 46) (“I thought it was an SEC violation.”). Plaintiff also admits to learning about the
7 AEPA from the attorney who drafted his initial complaint, which was filed a year after the
8 Company fired him. (*Id.*)

9 Nearly five months after Plaintiff sent the pipeline email, Defendants terminated
10 him due to “position elimination.” (*Id.* at 59-62.) As a result, Plaintiff now claims he is a
11 “federal whistleblower that is suing his previous employer.” (*Id.* at 47.) Based primarily on
12 Plaintiff’s admission that he thought the Company violated federal law, Defendants move
13 for summary judgment on his remaining AEPA claim. (Mot. at 1.)

14 **III. LEGAL STANDARD**

15 Summary judgment is appropriate when “there is no genuine dispute as to any
16 material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P.
17 56(a). A material fact is any factual issue that might affect the outcome of the case under
18 the governing substantive law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986).
19 A dispute about a fact is “genuine” if the evidence is such that a reasonable jury could
20 return a verdict for the nonmoving party. *Id.* “A party asserting that a fact cannot be or is
21 genuinely disputed must support the assertion by . . . citing to particular parts of materials
22 in the record” or by “showing that materials cited do not establish the absence or presence
23 of a genuine dispute, or that an adverse party cannot produce admissible evidence to
24 support the fact.” Fed. R. Civ. P. 56(c)(1)(A), (B). The Court need only consider the cited
25 materials, but it may also consider any other materials in the record. *Id.* 56(c)(3). Summary
26 judgment may also be entered “against a party who fails to make a showing sufficient to
27 establish the existence of an element essential to that party’s case, and on which that party
28 will bear the burden of proof at trial.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

1 Initially, the movant bears the burden of demonstrating to the Court the basis for the
2 motion and “identifying those portions of [the record] which it believes demonstrate the
3 absence of a genuine issue of material fact.” *Id.* If the movant fails to carry its initial burden,
4 the nonmovant need not produce anything. *Nissan Fire & Marine Ins. Co. v. Fritz Cos.*,
5 210 F.3d 1099, 1102–03 (9th Cir. 2000). If the movant meets its initial responsibility, the
6 burden then shifts to the nonmovant to establish the existence of a genuine issue of material
7 fact. *Id.* at 1103. The nonmovant need not establish a material issue of fact conclusively in
8 its favor, but it “must do more than simply show that there is some metaphysical doubt as
9 to the material facts.” *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574,
10 586 (1986). The nonmovant’s bare assertions, standing alone, are insufficient to create a
11 material issue of fact and defeat a motion for summary judgment. *Liberty Lobby*, 477 U.S.
12 at 247–48. “If the evidence is merely colorable, or is not significantly probative, summary
13 judgment may be granted.” *Id.* at 249–50 (citations omitted). However, in the summary
14 judgment context, the Court believes the nonmovant’s evidence, *id.* at 255, and construes
15 all disputed facts in the light most favorable to the nonmoving party, *Ellison v. Robertson*,
16 357 F.3d 1072, 1075 (9th Cir. 2004). If “the evidence yields conflicting inferences
17 [regarding material facts], summary judgment is improper, and the action must proceed to
18 trial.” *O’Connor v. Boeing N. Am., Inc.*, 311 F.3d 1139, 1150 (9th Cir. 2002).

19 While the Court must construe pleadings liberally, “[p]ro se litigants must follow
20 the same rules of procedure that govern other litigants.” *King v. Atiyeh*, 814 F.2d 565, 567
21 (9th Cir. 1987). Regardless of his pro se status, the elements that Plaintiff must prove at
22 summary judgment and his burden of proof are not relaxed simply because he is appearing
23 without counsel. *Jacobsen v. Filler*, 790 F.2d 1362, 1364 (9th Cir. 1986); *see also Thomas*
24 *v. Ponder*, 611 F.3d 1144, 1150 (9th Cir. 2010) (“an ordinary *pro se* litigant, like other
25 litigants, must comply strictly with the summary judgment rules” (citation omitted)).

26 The Ninth Circuit “has set a high standard for the granting of summary judgment in
27 employment discrimination cases.” *Schnidrig v. Columbia Mach., Inc.*, 80 F.3d 1406, 1410
28 (9th Cir. 1996). “As the Ninth Circuit has explained, ‘[w]e require very little evidence to

1 survive summary judgment in a discrimination case, because the ultimate question is one
2 that can only be resolved through a ‘searching inquiry’—one that is most appropriately
3 conducted by the factfinder, upon a full record.’” *Drottz v. Park Electrochemical Corp.*,
4 No. CV 11-1596, 2013 WL 6157858, at *5 (D. Ariz. Nov. 25, 2013) (quoting *Lam v. Univ.*
5 *of Hawaii*, 40 F.3d 1551, 1564 (9th Cir. 1994)). Nevertheless, the Court may still grant
6 summary judgment on an AEPA claim when a plaintiff fails to show a genuine issue of
7 material fact and the facts show that plaintiff did not reasonably believe Arizona law was
8 violated. *Drottz*, 2013 WL 6157858, at *18.

9 IV. DISCUSSION

10 A. Arizona Employment Protection Act Claim

11 Defendants move for summary judgment on Plaintiff’s AEPA claim. (Mot. at 1.)
12 Plaintiff alleges that Defendants violated the AEPA’s whistleblower protections by
13 terminating him for reporting that Buddemeyer ordered him to create the fraudulent
14 pipeline email for public reporting purposes. (Doc. 37 ¶¶ 36, 38, 54, 68.) While the Court
15 found Plaintiff’s allegations sufficient to survive dismissal, (Doc. 78 at 6), they are
16 insufficient to survive summary judgment as explained in more detail below.

17 1. The AEPA’s Legal Framework

18 Under the AEPA, employers may not “terminat[e] the employment relationship of
19 an employee in retaliation” for a “disclosure by the employee in a reasonable manner that
20 the employee has information or reasonable belief that the employer, or an employee of the
21 employer, has violated, is violating or will violate the Constitution of Arizona or the
22 statutes of [Arizona].” A.R.S. § 23-1501(A)(3)(c)(ii). The employee’s disclosure must be
23 to the employer or a representative reasonably believed by the employee to be in a
24 managerial or supervisory position who is authorized to investigate the alleged misconduct
25 and take action to prevent future violations. *Id.* Accordingly, an AEPA claim has four
26 elements:

27 (1) *information or reasonable belief that plaintiff’s employer,*
28 *or another employee of the employer, has violated, is violating,*

1 or will violate Arizona's constitution or statutory law;

2 (2) disclosure of information or reasonable belief of a violation
3 in a reasonable manner;

4 (3) to the employer or employer's representative who plaintiff
5 reasonably believes is in managerial or supervisory position
6 and has authority to investigate and take action to prevent
7 further violations; and

8 (4) plaintiff was terminated because of the disclosure.

9 A.R.S. § 23-1501(A)(3)(c)(ii) (emphasis added); *see also Denogean v. San Tan Behavioral*
10 *Health Servs. LLC*, No. CV-16-03573-PHX-DGC, 2017 WL 4922035, at *3 (D. Ariz. Oct.
11 31, 2017). By its plain language, Plaintiff only has an AEPA claim if he had information
12 or reasonable belief that he, the Company, and/or another employee violated Arizona law.
13 *Nelson v. Millennium Laboratories, Inc.*, No. 12-CV-01301-SLG, 2014 WL 11514329, at
14 *8 (D. Ariz. Jun. 5, 2014). Defendants dispute whether (1) Plaintiff reported his suspected
15 violation, or if he did, whether it was reasonably reported and (2) whether his termination
16 was retaliatory. (Mot. at 6-7.) Again, these disputes would warrant trial *only if* Plaintiff has
17 information or reasonable belief that he, the Company, and/or another employee violated
18 Arizona law. *Rowberry v. Wells Fargo Bank NA*, No. CV-14-01801-PHX-DLR, 2015 WL
19 7273136, at *5 (D. Ariz. Nov. 18, 2015); *Nelson*, 2014 WL 11514329, at *8; *Drottz*, 2013
20 WL 6157858, at *18. As explained below, Plaintiff had no such information or reasonable
21 belief.

22 **2. Predicate Violation of an Arizona Statute or Arizona's**
23 **Constitution**

24 Under the first element, a "plaintiff must point to a predicate Arizona constitutional
25 provision or statute that [he, another employee, or] the employer 'violated, is violating or
26 will violate.'" *Drottz*, 2013 WL 6157858, at *16 (quoting A.R.S. § 23-1501(A)(3)(c)(ii)).
27 "An actual violation of the predicate statute [or Arizona's constitution] need not occur."
28 *Id.* at *17 (citing *Logan v. Forever Living Prod. Int'l, Inc.*, 52 P.3d 760, 763 (Ariz. 2002)).

1 But an employee's belief that Arizona law was violated must be *reasonable*. *Id.* Notably,
2 information or reasonable belief of a federal violation cannot serve as a predicate violation
3 under the AEPA. *Galati v. Am. W. Airlines, Inc.*, 205 Ariz. 290, 292-94 ¶¶ 5-15 (App.
4 2003).

5 **a. Plaintiff's Deposition Admissions Show That He**
6 **Thought Federal Law, Not Arizona Law, Was Violated.**

7 First, Defendants argue they are entitled to summary judgment because Plaintiff's
8 deposition testimony proves he thought federal law was violated, which shows he lacked
9 information or reasonable belief that Arizona law was violated. (Mot. at 2, 7, 9; Repl. at 3,
10 6.) Plaintiff said at deposition that he was not thinking about the situation from an Arizona
11 standpoint and that he thought it was a federal violation. (*See* Doc. 89-1 at 46.)

12 Plaintiff disputes how to interpret his deposition admission relating to how he
13 thought federal law was violated.⁴ (Resp. at 15.) In effect, Plaintiff attempts to alter his
14 deposition testimony by inserting ex post facto, unsubstantiated editorial comments. (*See*,
15 *e.g., id.* at 14.) As Defendants correctly highlight, "a party cannot create an issue of fact by
16 an affidavit contradicting his prior deposition testimony." (Repl. at 4 (citing *Kennedy v.*
17 *Allied Mut. Ins. Co.*, 952 F.2d 262, 266 (9th Cir. 1991) (citations omitted)). There are even
18 situations when a court can disregard a self-serving *affidavit* at the summary judgment
19 stage. *S.E.C. v. Phan*, 500 F.3d 895, 909 (9th Cir. 2007) (disregarding self-serving affidavit
20 at summary judgment because it "states only conclusions, and not such facts as would be
21 admissible in evidence."). *Phan's* reasoning easily applies here — Plaintiff cannot create
22 a triable issue of fact with unsupported statements, asserted in a *pleading*, that contradict
23 deposition testimony taken under oath. *Id.* Regardless, the Court need not consider
24 Plaintiff's unsupported conclusions of genuine issues of material fact as evidence creating
25 triable facts requiring trial. *See Liberty Lobby*, 477 U.S. at 247–48. The Court consequently
26 finds that Plaintiff fails to show a genuine issue of material fact exists and turns to whether
27 the facts entitle Defendants to summary judgment.

28 ⁴ Again, Plaintiff's Response is unsupported by evidence and omits citations to Defendants'
statement of facts. (*See generally* Resp.)

1 Two cases relating to AEPA claims warrant granting Defendants' Motion on their
2 first ground for relief. *See Rowberry*, 2015 WL 7273136; *see also Nelson*, 2014 WL
3 11514329. Both cases reason that a plaintiff cannot reasonably believe a violation of
4 Arizona law occurred when they admit they thought a federal violation occurred. *Id.* For
5 instance, the *Rowberry* court found that a plaintiff did not reasonably believe an Arizona
6 violation occurred because she admitted at deposition that she thought her employer
7 violated "federal reserve rules, regulations, and the like." *Rowberry*, 2015 WL 7273136, at
8 *4. Consequently, the *Rowberry* court granted summary judgment because it found "no
9 reasonable jury could conclude [plaintiff] engaged in activity protected by the AEPA." *Id.*
10 at *4-5. The *Nelson* court made a similar finding in granting summary judgement because
11 the plaintiff there "testified that she believed that [her employer] was violating only a
12 federal anti-kickback law." *Nelson*, 2014 WL 11514329, at *8. Both cases establish that a
13 plaintiff must reasonably believe that an *Arizona*, not federal, violation occurred. When a
14 plaintiff believes a federal violation occurred instead, summary judgment is appropriately
15 granted against him or her. *Drottz*, 2013 WL 6157858, at *18.

16 The facts in *Rowberry* and *Nelson* are almost identical here. At deposition, Plaintiff
17 admits he thought the Company violated federal securities laws. (Doc. 89-1 at 46) ("I didn't
18 look at [the situation] from an Arizona standpoint. . . . I thought it was a federal violation.
19 . . . I thought it was an SEC violation."). Moreover, Plaintiff claims he is a "federal
20 whistleblower," (*id.* at 47), who learned about the AEPA from the attorney who drafted his
21 initial complaint, (*id.* at 46). These admissions show that Plaintiff thought a federal
22 violation occurred and Plaintiff offers no rebuttal evidence showing otherwise. Based on
23 these deposition admissions, no reasonable fact-finder could conclude that Plaintiff
24 reasonably believed Arizona law was violated when he explicitly admits that he thought
25 federal law was violated.

26 **b. Plaintiff's Belief That Arizona Law Was Violated is**
27 **Unreasonable.**
28

1 Second, Defendants argue that Plaintiff's belief that Arizona law was violated is
2 unreasonable, even setting aside Plaintiff's fatal deposition admissions. Plaintiff argues
3 that he reasonably believed Arizona law was violated because (1) additional research and
4 discussions with attorneys, at unknown dates and times, made him realize Arizona law was
5 or would be violated, (*id.* at 22); (2) his training and experience in real estate made it
6 probable he would recognize a violation of Arizona law; and (3) he admitted under oath
7 that he violated Arizona law to numerous individuals and this Court, (*id.* at 11-12).

8 The Court finds that Buddemeyer and Lodge's numerous emails inquiring whether
9 the estimates were accurate or reportable foreclose the possibility that Plaintiff's belief was
10 reasonable.⁵ (Doc. 89-1 at 49-51; 4 ¶¶ 13-14; 56-57 ¶¶ 10-11.) Lodge explicitly told
11 Plaintiff that he could not record the estimates without documentation. (*Id.* at 49-50.)
12 Indeed, Plaintiff admittedly understood Lodge's email to mean the Company could not
13 report his estimates without documentation. (*Id.* at 39-40.) Moreover, any information
14 Plaintiff received from the attorney who drafted and filed his initial complaint a year after
15 he was fired does not support the notion that *he* reasonably believed the Company violated
16 Arizona law at the time. (*See id.* at 46.) Lastly, Plaintiff's claims concerning his personal
17 research of Arizona law and alleged knowledge from previous experiences and trainings is
18 either unsubstantiated or too generalized to sufficiently demonstrate that he reasonably
19 believed Arizona law was violated. For these reasons, the Court alternatively finds that no
20 reasonable fact-finder could conclude Plaintiff reasonably believed Arizona law was
21 violated, even setting aside his fatal deposition admissions.

22 23 **V. CONCLUSION**

24 The Court finds no genuine issue of material fact exists that would warrant a trial.
25 Additionally, the Court finds the undisputed facts favor granting Defendants' Motion
26 because they show that Plaintiff had neither information nor a reasonable belief that
27 *Arizona* law, let alone any law, was violated.

28 ⁵ Both Buddemeyer and Lodge also stated under oath that they did not inform Plaintiff that
the pipeline email estimates could be used for financial reporting purposes. (*Id.*)

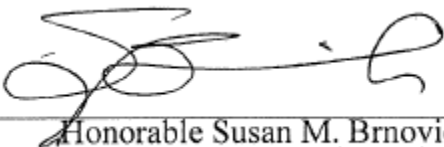
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Accordingly,

IT IS ORDERED that Defendants’ Motion for Summary Judgment (Doc. 88) is
GRANTED WITH PREJUDICE.

IT IS FURTHER ORDERED directing the Clerk of Court to enter judgment
accordingly and terminate this case.

Dated this 17th day of December, 2019.



Honorable Susan M. Brnovich
United States District Judge